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CLERK
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

GREAT BOWERY, doing business as
TRUNK ARCHIVE,

Plaintiffs,

v.

BEST LITTLE SITES, doing business as
www.comicbookmovie.com, NATHAN
BEST, MARK CASSIDY and JOSHUA
WILDING,

Defendants.

ORDER TO PROPOSE SCHEDULE

Case No. 2:21-cv-00567

District Judge

Magistrate Judge Dustin B. Pead

To secure the just, speedy, and inexpensive determination of every action and proceeding, and to fulfill the purposes of Fed. R. Civ. P. 16, 26, and DUCivR 16-1, IT IS HEREBY ORDERED:

1. Plaintiff(s) must propose a discovery schedule to defendant(s) in the form of a draft [Attorney Planning Meeting Report](#) within twenty-one (21) days after any defendant has been served or any defendant has appeared, unless any party is appearing *pro se*.

2. When a Scheduling Order has not been entered, within thirty (30) days after any defendant has been served with the complaint or after any defendant has appeared,¹ the parties shall meet, confer, and do one of the following (unless otherwise ordered by the court or an exception in paragraph 6 applies):

¹ A waiver of service is construed by the court as an appearance only for the purposes of triggering the deadlines in this order.

- a. When the parties agree on the discovery schedule, plaintiff must file a jointly signed Attorney Planning Meeting Report and email the appropriate stipulated Proposed Scheduling Order,² in a word processing format, either to the assigned District Judge or to the Magistrate Judge, when a referral has been made.
- b. When the parties disagree on the discovery schedule and agree a hearing is needed, plaintiff must file a jointly signed Attorney Planning Meeting Report detailing the nature of the parties' disputes and a stipulated motion requesting the court schedule an Initial Scheduling Conference.
- c. When the parties are unable to agree on the discovery schedule and the need for a hearing, plaintiff must file a Motion for Initial Scheduling Conference that includes plaintiff's proposed discovery schedule. A response to the motion must be filed within seven (7) days.

3. In the absence of filing a stipulated Proposed Scheduling Order, at the Initial Scheduling Conference the parties must be prepared to address the issues raised in the Attorney Planning Meeting Report and the following:

- a. Briefly and succinctly describe the determinative facts, primary claims, and primary defenses.
- b. Identify all necessary claims for relief, any which overlap, and those claims that should be eliminated to reduce discovery and expense.

² For patent cases, please use the [Proposed Patent Case Scheduling Order](#). For general civil litigation cases, please use the [Proposed Civil Scheduling Order](#). For administrative cases filed under DUCivR 7-4, please use the [Proposed Administrative Scheduling Order](#).

- c. Explain how all pleaded defenses are truly applicable to this case or if any defenses can be eliminated.
- d. Identify two (2) or three (3) essential witnesses each side will depose, and any reason why these witnesses cannot be deposed immediately.
- e. Identify the information that is most helpful in evaluating the likelihood of settlement, and any reason why this information cannot be obtained promptly.
- f. Identify case management strategies that should be employed at the beginning of the case to narrow and target discovery.
- g. Explain agreements about discovery limitations, including the exchange of Electronically Stored Information.
- h. Identify whether the court should schedule any follow-up status conferences.

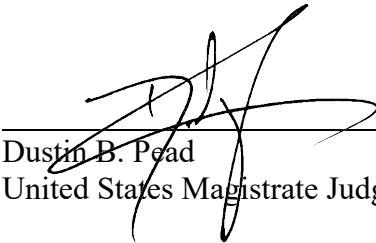
4. Each party shall make initial disclosures within forty-two (42) days after the first answer is filed. This deadline is independent of the requirements of the Attorney Planning Meeting Report, the Scheduling Order, and the Initial Scheduling Conference.

5. When necessary, a Scheduling Order should provide for the:

- a. Completion of fact discovery no more than ten (10) months after the filing of the first answer.
- b. Expert reports due from the party with the burden of proof on that issue twenty-eight (28) days after the completion of fact discovery and responsive reports due twenty-eight (28) days thereafter.

- c. Completion of expert discovery twenty-eight (28) days after filing of an expert's report.
 - d. Dispositive motion filing deadline no more than twelve (12) months after the filing of the first answer.
6. Exceptions:
- a. When a dispositive motion or a Fed. R. Civ. P 12(b) motion is pending at the time of the entry of this order or prior to the expiration of the deadlines set forth in paragraph 2 above, plaintiff(s) must propose a schedule to defendant(s) in the form of a draft [Attorney Planning Meeting Report](#) within fourteen (14) days after the court issues its ruling on the motion. Within this same fourteen (14) days, the parties shall meet, confer, and comply with the requirements in paragraph 2 above.
 - b. Parties appearing *pro se* are not subject to the requirements of this order.
 - c. Unless otherwise ordered by the court, the categories of cases set forth in DUCivR 16-1 are exempt from the requirements of this order.

DATED this 28 September 2021.



Dustin B. Pead
United States Magistrate Judge